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**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

**AN ADJUSTMENT OF THE GAS)
AND ELECTRIC RATES, TERMS)
AND CONDITIONS OF LOUISVILLE) CASE NO: 2003-00433
GAS AND ELECTRIC COMPANY)**

and

**AN ADJUSTMENT OF THE ELECTRIC)
RATES, TERMS AND CONDITIONS OF) CASE NO: 2003-00434
KENTUCKY UTILITIES COMPANY)**

Attorney General's Memorandum on Petition for Rehearing

In its Order of August 12, 2004 the Commission found it appropriate to rehear whether it is appropriate to use the Companies' effective Kentucky Income tax rates, what those rates are, and whether they would have impacted the increases granted.

The effective Kentucky income tax rate is a benefit flowing from the merger of the Companies and their consequent ability to file a consolidated return that should be utilized despite the fact that it lacks the named certainty of the statutory rate. Not only is the statutory rate higher than the Companies' experienced tax rate since 2002, it no longer reflects the income tax the Companies will pay while the rates are to be effective. Consequently, the statutory rate should not be used. Further, use of a consolidated income tax rate for KU and LG&E would be consistent with the utilization of the effective income tax rate for the Union Light, Heat and

Power Company¹ and for Kentucky-American Water Company² in the most recent rate cases for those two companies.

The difference between the revenue requirements found by the Commission for each company in its June 30, 2004 Order and the revenue requirements agreed to by each company in the Partial Settlement, Stipulation and Recommendation of May 12, 2004 is larger than the change in the state income tax rate for each Company that would occur from the use of an effective state income tax rate rather than the statutory rate. This is true regardless of whether the income taxes paid in other states on out-of-state activities are included in the analysis. Therefore, the dollar changes represented by the utilization of the effective tax rate may not serve to change the Commission's ultimate finding that the electric revenue increase agreed to by the Companies in the Partial Settlement Agreement, Stipulation and Recommendation is reasonable.

Nevertheless, that finding for each company was based on the Commission's independent analysis of the electric revenue requirements of each company. In the analysis the Commission utilized the normal and appropriate ratemaking approach for all other adjustments. It should do the same for this adjustment. Doing so would establish the guideline for treatment of this adjustment just as the Commission's analysis of all other adjustments in the Order of June 30, 2006 has done for those adjustments.

¹ Case No. 2001-00092, *In the Matter of Adjustment of Gas Rates of the Union Light, Heat and Power Company*. Order dated January 31, 2002, pp. 58-60

² Case No. 2004-00103, *In the Matter of: An Adjustment of the Rates of Kentucky-American Water Company*, Order dated February 28, 2005, pp. 63-67.

Respectfully submitted,

GREGORY D. STUMBO
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A handwritten signature in black ink, appearing to read "Elizabeth E. Blackford", written over a horizontal line.

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NOTICE OF FILING AND CERTIFICATION OF SERVICE

I hereby give notice that I have filed the original and ten true copies of the foregoing with the Executive Director of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, 40601 this the 3rd day of March, 2006, and certify that this same day I have served the parties by mailing a true copy, postage prepaid, to the following:

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